



## **GATES & COOPER**

## United States Patent Application COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

## METHOD AND APPARATUS FOR DETERMINING A RESPONSE TIME FOR A SEGMENT IN A CLIENT/SERVER COMPUTING ENVIRONMENT

The specification of which	<b>:</b> `		
a. 🔯 is attached hereto.			
b. was filed on and wa	as United States Application 2 as amended on (if a	Number or PCT Internations applicable), which I have revi	al Application Number newed and for which I solicit a
I hereby state that I have so claims, as amended by any	eviewed and understand the conter amendment referred to above.	nts of the above-identified sp	ecification, including the
I acknowledge the duty to with Title 37, Code of Fed	disclose information which is mate eral Regulations, § 1.56 (attached h	rial to the patentability of the ereto).	is application in accordance
application(s) for patent or one country other than the	rity benefits under Title 35, United inventor's certificate or 365(a) of a United States of America, listed beneficate or any PCT application have:	any PCT international application and have also identified	ation which designated at least
a. In o such applications b. such applications ha			
FOREIGN A	PPLICATION(S), IF ANY, CLA	LIMING PRIORITY UNI	DER 35 USC § 119
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
OTHER FOREIGN A	PPLICATION(S), IF ANY, PIL	ED BEFORE THE PRIC	RITY APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or 365(c) of any PCI international application(s) designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose

DATE OF FILING

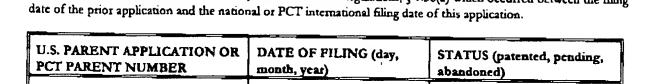
(day, month, year)

DATE OF ISSUE

(day, month, year)

**APPLICATION NUMBER** 

COUNTRY



material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)	
60/172,026	23 DECEMBER 1999	

I hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

George H. Gates	Registration No. 33,500	
Victor G. Cooper	Registration No. 39,641	
Karen S. Canady	Registration No. 39,927	
William J. Wood	Registration No. 42,236	
Jason S. Feldmar	Registration No. 39,187	

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Gates & Cooper to the contrary.

Please direct all correspondence in this case to the firm of Gates & Cooper at the address indicated below.

GATES & COOPER
Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, CA 90045

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

(1)	Full Name Of Inventor	Family Name KLEIN	First Given Name PAUL	Second Given Name F.
	Residence & Citizenship	City Thousand Oaks	State or Foreign Country California	Country of Citizenship U.S.A.
	Post Office Address	Post Office Address 1715 Fox Springs Circle	City Thousand Oaks	State & Zip Code/Country California 91320/U.S.A.
Signature of Inventor(1):			Date: 11 (18/2000	



- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office encourages applicants to carefully examine:
  - (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
  - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
  - (1) it establishes, by itself or in combination with other information, a prima facie case of unparentability of a claim; or
  - (2) it refutes, or is inconsistent with, a position the applicant takes in:
    - (i) opposing an argument of unpatentability relied on by the Office, or
    - (ii) asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
  - (1) each inventor named in the application:
  - (2) each attorney or agent who prepares or prosecutes the application; and
  - (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignce or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.